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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA  
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12                  EDWARD J. STEINER,

13                  Plaintiff,

14                  v.

15                  BRENT KEMPSTER, et al.,

16                  Defendants.

17                  CASE NO. 3:22-cv-05526-RJB-SKV

18                  ORDER ADOPTING REPORT AND  
19                  RECOMMENDATION AND RE-  
20                  REFERRING CASE

21                  This matter comes before the Court on the Report and Recommendation of U.S.

22                  Magistrate Judge S. Kate Vaughan. Dkt. 9. The Court has considered the Report and  
23                  Recommendation (Dkt. 9), Plaintiff's objections to the Report and Recommendation (Dkt. 11),  
24                  and the remaining file. It is fully advised.

25                  In his Amended Complaint, the Plaintiff alleges that a tribal officer, Brent Kempster,  
26                  violated his Fourth Amendment right against the use of excessive force and two private citizens,  
27                  April Blair-Pullen and Nicole Wheeler, conspired with Kempster following his use of force.  
28                  Dkt. 7. (The Plaintiff filed this Amended Complaint after he was given notice of the deficiencies  
29                  in his original complaint.)

1 On October 11, 2022, the Report and Recommendation was filed; it recommends  
2 dismissal, without prejudice, of the claims for conspiracy against Defendants April Blair-Pullen  
3 and Nicole Wheeler for failure to state a claim. Dkt. 9.

4 The Report and Recommendation (Dkt. 9) should be adopted. For the reasons provided  
5 in the Report and Recommendation, the conspiracy claims asserted against the private citizens,  
6 Defendants Blair-Pullen and Wheeler, should be dismissed, without prejudice, for failure to state  
7 a claim.

8 The undersigned notes that while the pleading containing the Plaintiff's objections is  
9 entitled "Motion and Objections Reconsideration" (Dkt. 11), he does not move the court for any  
10 relief (other than not adopting the Report and Recommendation) and does not identify any order  
11 to be reconsidered. Accordingly, the pleading will be construed as objections. The Plaintiff's  
12 objections are a repetition of his prior assertions and are addressed in the Report and  
13 Recommendation. They do not provide a basis to not adopt the Report and Recommendation.

14 This case should be re-referred to U.S. Magistrate Judge S. Kate Vaughan for further  
15 proceedings consistent with this opinion.

16 **IT IS SO ORDERED.**

17 The Clerk is directed to send uncertified copies of this Order to U.S. Magistrate Judge S.  
18 Kate Vaughan, all counsel of record and to any party appearing *pro se* at said party's last known  
19 address.

20 Dated this 7<sup>th</sup> day of November, 2022.

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23 ROBERT J. BRYAN  
United States District Judge  
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